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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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| Application of Pacific Gas and Electric Company Proposing Cost of Service and Rates for Gas Transmission and Storage Services for the Period 2015 - 2017 (U39G). | Application 13-12-012<br>(Filed December 19, 2013) |
| And Related Matter. | Investigation 14-06-016 |

**REPLY COMMENTS OF**
**THE OFFICE OF RATEPAYER ADVOCATES**
**ON THE PROPOSED DECISION OF**
**ADMINISTRATIVE LAW JUDGE AMY YIP-KIKUGAWA**


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Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the Office of Ratepayer Advocates (ORA) submits these Reply Comments on the Proposed Decision (PD) of Administrative Law Judge (ALJ) Amy Yip-Kikugawa in the above-captioned matter. ORA clarifies here that it generally has no objection to the scope of the programs being proposed in this rate case cycle. Rather, ORA's concerns relate to the differences in program forecasts between PG&E and ORA, which are due to ORA's use of updated or more complete PG&E data than was available when PG&E prepared its forecasts in 2013.

## I. Requiring PG&E To Pressure Test A Specified Number Of Miles Is Necessary And Consistent With Public Utilities Code § 958

The PD requires Pacific Gas and Electric Company (PG&E) to hydrotest 510 miles of pipe during the rate case period and up to 50 miles of pipe installed after 1961 for which it has no pressure test records.[1] The PD bases this determination primarily on PG&E's own forecast, which provides for 510 miles of "recoverable testing miles" and a commitment to hydrotest 74 miles of pipe installed after 1961[2] PG&E now argues that it should not be held to its forecast, explaining that such a requirement is "inconsistent with the PD's requirement to prioritize work based on risk."[3] PG&E complains that "[b]y turning this forecast into a mandate, the PD removes any flexibility to perform work that has been determined to be of higher priority."[4]

PG&E's argument is premised on two errors. First, PG&E overlooks the fact that Public Utilities Code § 958[5] requires that it have a "comprehensive pressure testing implementation plan" in place to provide for testing or replacement of its entire transmission system. Among other things, the plan must include a "timeline for completion that is as soon as practicable." As the Safety and Enforcement Division (SED) Report in this proceeding confirmed, PG&E has no such plan.[6]

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[1] PD, pp. 60-61 and Conclusion of Law (COL) 28.
[2] PG&E Opening Comments (OC), p. 16 and Ex. PG&E-1 (Direct Testimony), p. 4A-32 to 33 and 4A-42.
[3] PG&E OC, p. 15.
[4] PG&E OC, p. 16.
[5] Unless otherwise noted, all further section references are to the California Public Utilities Code.
[6] "Safety and Enforcement Division Final Staff Report, Pacific Gas & Electric Company Proposal for Cost of Service and Rates for Gas Transmission and Storage for 2015-2017 Application 13-12-012," September 11, 2014, p. 40 (SED Report) (PG&E's GT&S plans were "no longer intended to address the mandate to replace or pressure test all untested transmission pipeline"); *id,* p. 45 (noting conflict between PG&E's plans and "California's pressure testing mandates, [which] have established a completion date that is 'as soon as practicable'."). *See also*18 RT 1847-1848 (Barnes/PG&E) (PG&E has no plans to test certain pipes that are missing records and were previously identified as high priority for PSEP purposes.)

At this point, the closest that the Commission can come to moving PG&E toward a § 958 plan is for it to mandate, at a minimum, that PG&E perform the work proposed in its Application and funded in this rate case. Consequently, in the absence of a plan, the PD's mandate is more than reasonable, it is necessary.[7]

PG&E's second error is its reliance on the proposition that it is performing work based on a legitimate risk assessment. As the Commission determined in D.14-08-032: "Virtually everything a utility does [has] some nexus to safety and can be deemed to have some safety impact, but the emphasis should be on those initiatives that deliver the optimal safety improvement in relation to the ratepayer dollars spent."[8] ORA, The Utility Reform Network (TURN), and Indicated Shippers (IS) produced overwhelming record evidence that PG&E's "risk assessment program" does not even rank, let alone quantify, its proposed risk mitigation programs in terms of their cost-effectiveness of reducing risk.[9] As such, it would be inappropriate at this point to permit PG&E to determine for itself that other work should take priority over the pressure testing and replacement of its system *required* by § 958.

Further, even if PG&E had a functional risk assessment program, it would still be appropriate for the Commission to impose a specific pressure test obligation on PG&E. The Legislature clearly deemed such work to be a high priority when it adopted § 958, requiring not only a "comprehensive" plan, but its completion "as soon as practicable."

To clarify the PD on these issues, the PD risk assessment determinations should be modified as set forth in ORA's Opening Comments, and the PD should include the following new Conclusions of Law and Ordering Paragraphs:

> <u>New Conclusions of Law:</u>
>
> As the SED Report identified, PG&E's Application in this proceeding is not a "plan" for testing and replacement of its system as required by Public Utilities Code § 958.
>
> It is necessary for compliance with Public Utilities Code § 958 that PG&E provide a comprehensive pressure testing implementation plan, including a timeline for completion of all work as soon as practicable with each rate case application.
>
> Because of cost disallowances for certain test and replace work ordered in this and prior Commission decisions, and to protect ratepayers, PG&E should be required to report all costs in its quarterly reports, including disallowed project costs.

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[7] It may be appropriate to provide some latitude in the requirement, such as 560 miles plus or minus 10 miles.

[8] D.14-08-032, p. 28.

[9] *See, e.g.,* ORA OB, pp. 12-20 and Ex. ORA-53; TURN OB, pp. 8-11 and Ex. TURN-1; and IS OB, pp. 20-81 and Ex. Indicated Shippers-8.

PG&E should be required to pressure test a specified number of miles in this rate case period to compensate for its failure to provide such a plan in this rate case.

PG&E should be required to provide a plan compliant with Public Utilities Code § 958 no later than 90 days after the effective date of this decision. At a minimum, the plan should identify: (1) all pipes already tested or replaced; (2) the pipes to be tested or replaced in this rate case cycle; and (3) the pipes remaining to be tested or replaced in later rate case cycles, and a timeline for completing that work.

New Ordering Paragraphs:

To ensure PG&E's compliance with Public Utilities Code § 958, PG&E shall provide a comprehensive pressure testing implementation plan, including a timeline for completion of all work as soon as practicable with each rate case application. Such a plan should, at a minimum, contain the information required in the plan ordered to be provided following the effective date of this Decision. PG&E shall also be required to hydrotest 510 miles of pipe during the Rate Case Period plus up to 50 miles of pipe installed after July 1, 1961 for which it has no pressure test records in order to compensate for its failure to provide such a plan in this rate case. To ensure that certain costs disallowed in this and prior Commission decisions are not passed through to ratepayers, PG&E shall track the costs for **all** work, including disallowed project costs for pipe installed after January 1, 1956.

PG&E shall provide a plan compliant with Public Utilities Code § 958 no later than 90 days after the effective date of this decision. At a minimum, the plan must identify: (1) all pipes already tested or replaced; (2) the pipes to be tested or replaced in this rate case cycle; and (3) pipes remaining to be tested or replaced in later rate case cycles, and a timeline for completing that work.

## II. It Is Appropriate For The Commission To Require PG&E To Perform The Scope Of Valve Work Proposed And Fully Funded In This Rate Case

The PD requires PG&E to honor its forecast and replace 99 inoperable or hard-to-operate valves in exchange for approving PG&E's forecasted costs for this program.[10] The PD also caps PG&E's recovery to its forecasted costs. Like the hydrotest mandate, PG&E claims that this requirement is "inconsistent with the PD's requirement to prioritize work based on risk."[11] PG&E explains that "[t]he 99 valves PG&E identified for replacement during the rate case period was a forecast" and that it may identify other valves needing replacement during the rate case period.[12] PG&E is concerned that the cost cap will prevent it from prioritizing the right projects and making safety a top priority.[13]

As described in Section I above, PG&E errs by relying on the proposition that it is performing work based on a legitimate risk assessment. PG&E's risk assessment model is not

[10] PD, pp. 93-94, COL 52, and OP 5.
[11] PG&E OC, p. 15.
[12] PG&E OC, p. 17.
[13] PG&E OC, p. 17.

prioritizing work in any coherent manner. Consequently, the PD appropriately mandates PG&E to perform the full scope of work that it proposed and the PD has funded. To the extent additional work is required, as PG&E suggests, it is appropriate for PG&E shareholders to absorb costs for "inoperable" valves, as such valves reflect imprudently deferred maintenance which should not be funded by ratepayers, consistent with the determinations in D.82-12-055.[14]

## III. The $850 Million In San Bruno Disallowances Should Be Addressed As Provided In The Second Amended Scoping Memo

PG&E urges the Commission to address the application of the $850 million penalty assessed in the San Bruno Investigations in the PD, rather than defer the issue to a separate decision after determination of PG&E's revenue requirement.[15] PG&E's proposal is error for the reasons set forth in TURN's Opening Comments.[16] In sum, the proposal is contrary to the approach adopted in the June 11, 2015 amended scoping ruling,[17] and therefore conflicts with the Commission's legal obligation to comply with its own rules. Further, implementation of the $850 million penalty involves many factors that must be considered to maximize the ratepayer benefit of the penalty. Given the numerous errors contained in the PD and identified in parties' Opening Comments, the disallowances cannot be appropriately determined until after the decision on PG&E's revenue requirement is finalized.

## IV. NCGC Inappropriately Seeks to Shift Safety-Related Expenditures to Core Customers

The Northern California Generation Coalition (NCGC) proposes reallocating safety costs based on population density.[18] The Commission has properly rejected arguments that safety costs should be allocated between customer classes any differently than all other gas transportation costs for both PG&E and the Sempra companies. The Commission correctly concluded in D.14-06-007 that "[t]he existing cost allocation methodology is reasonable for the costs of Safety Enhancement **because these costs are necessary to safely and reliably supply natural gas to existing**

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[14] D.82-12-055, 10 CPUC 2d 155, 186; (1982) ("For us to authorize Edison's recovery of deferred maintenance expense would establish an undesirable precedent, whereby the utility is effectively guaranteed that it can earn (or exceed) its authorized rate of return, regardless of its operating efficiency or inefficiency, simply by curtailing current maintenance activities, in assurance that they could be refinanced later through recovery of deferred maintenance expenses in a succeeding rate case. This would create a perverse incentive for the utility to defer needed maintenance in the future.").

[15] PG&E OC, p. 21.

[16] TURN OC, pp. 18-21.

[17] *Ruling of Assigned Commissioner and Administrative Law Judge Amending Scope to Consider Remedies and Disallowances Adopted in Decision 15-04-024,* A.13-12-012, June 11, 2015.

[18] NCGC OC, pp. 19-21.

**customers in the same manner as the existing system serves customers."**[19] The witness NCGC refers to ignored this holding and failed to distinguish its proposal here. While PG&E's application would increase core rates by 188% as compared to 164% to non-core customers over current rates, the local transmission cost-allocation proposals of Calpine and IS would increase core rates by 216%, and noncore rates by 111%.[20] The Calpine and Indicated Shippers proposal would impact 2015 core rates relative to PG&E's application by an increase of 9.7%, while decreasing non-core rates by 19.9%.[21] Consistent with D.14-06-007, the Commission should retain its current approach to allocation of safety costs.

## V. PG&E's Self-Identified Disallowances Are Temporary

With regard to "self-identified exclusions"[22] PG&E has made from costs, the PD should be clarified to reflect that such "exclusions" must be permanent because PG&E's Opening Comments reflect that PG&E intends to seek the costs in future rate cases. With regard to corrosion control disallowances, PG&E states: "PG&E chose to forego recovery of revenues associated with this work <u>in this rate case period. PG&E has not yet requested recovery for these capital costs. Rather than prejudge the issue without an evidentiary record, the Commission should address the issue if and when PG&E seeks to include these costs in rate base</u>."[23] PG&E is correct that there is a lack of evidentiary record, but this is because PG&E did not meet its burden of proof and identify which costs were assigned to shareholders. PG&E stated in its Opening Brief that it "has no burden to prove anything about the cost of work not in its forecast. … All that is relevant is what PG&E ultimately chose to include in its forecast."[24]

Under PG&E's standard, parties and the Commission have no way of tracking which work will be funded by shareholders. The Commission should hold PG&E accountable for its claimed disallowances and prevent opportunities for future recovery – particularly when PG&E has admitted it excluded the costs to account for regulatory non-compliance.[25]

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[19] D.14-06-007, COL 30, p. 59 (*emphasis added*).
[20] Ex. ORA-46, pp. 2-4 and Table 2. These percentage increases are lowered by the PD, but the relative proportion in increase between core and non-core customer classes remains about the same.
[21] Ex. ORA-46, p. 3.
[22] PD, p. 160.
[23] PG&E OC, p. 20.
[24] PG&E OB, p. 10-19.
[25] PG&E OB, pp. 10-15 and 10-16, with reference to Ex. PG&E-1, p. 7-6.

Respectfully submitted,

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